

The Examiner required, under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the shall be restricted if no generic claim is finally held to be allowable. The Examiner held that claims 1-3, 18-20, 21-25 and 38-53 were generic.

The Examiner warned that the reply to the election/restriction requirement must include an identification of the species that is elected and a listing of all claims readable on said election. The Examiner further warned that argument that a claim is allowable or that all claims are generic would be considered non-responsive unless accompanied by an election.

The Examiner stated that upon allowance of a generic claim, applicants would be entitled to consideration of claims to additional species that are written in dependent form or otherwise include all the limitations of an allowed generic claim. The Examiner further stated that if claims were added after the election, applicants must indicate which claims are readable upon the elected species.

The Examiner required that should applicants traverse on the ground that the species are not patentably distinct applicants must submit evidence, or identify evidence within the record showing the species to be obvious variants or clearly admit on the record that the species are obvious variants. The Examiner warned that in either instance, if the Examiner finds that one of the inventions are unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a).

2. The Examiner noted that a call was made to Applicants' attorney on September 16, 2002 to request an oral election to the restriction requirement. The Examiner was correct that an election did not result and Applicants' attorney apologizes; however, attorney Alworth needed instructions from Applicants before an election could be made.

3. The Examiner set down information regarding inquires and telephone numbers.